THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.4527; 4535 and 4536 of 2007

06-03-2007

W.P.No. 4527 of 2007 and batch

Between:-

Prabhu Dall and Flour Mill, Punganur,
Chittor district rep., by its Managing Partner,
K. Prabhakar Rao

Petitioner

And

The Collector (Civil Supplies),
Chittoor district and two others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 4527; 4535 and 4536 of 2007

Common Oral order:

These writ petitions involve substantially similar questions of fact and identical positions of law and therefore are considered and disposed of together by this common order after hearing the learned counsel for the petitioners Sri Vedula Srinivas and the learned Government Pleader for Civil Supplies.

Each of the petitioners has the requisite license under the provisions of the Andhra Pradesh Scheduled Commodities (Licensing and Distribution) Order, 1982 (for short 'the Control Order'). Their respective business premises were inspected and a variation of the stocks on ground vis-à-vis the stocks reflected in the books of

account, were found. The stocks were seized under separate panchanamas and cases under Sections 6-A of the Essential Commodities Act, 1955 (for short 'the Act') were initiated.

No orders of interim disposal of the seized commodities, under Section 6-A (2) of the Act have yet been passed. The petitioners however apprehend that in view of a general circular issued by the ex-Officio Secretary to the Government in the Memo dated 22-02-2007, the District Collectors or the competent authority concerned would post-haste proceed to pass interim disposal orders under Section 6-A (2) of the Act and without rationally forming and recording the opinion as mandated by the provisions of Section 6-A (2) of the Act. Admittedly no orders of interim disposal have yet been passed. Each of the petitioners have also submitted applications to the Joint Collector, Chittoor seeking interim release of the seized commodities, pending proceedings under Section 6-A of the Act. The petitioners' grievance is that their applications have not yet been considered and disposed of.

In the aforesaid circumstances and on the facts pleaded and revealed from the record, this court is not inclined to invalidate the seizure of the commodities as there is a *prima facie* violation of the provisions of the Control Order and the terms and conditions of the licenses. Whether there is in fact such a transgression

and of a magnitude warranting confiscation is an issue that has to be considered in the proceedings under Section 6-A of the Act. As there are no orders of interim disposal passed, no advance ruling on what ought to be done in the exercise of the discretion available under Section 6-A of the Act is inappropriate at this stage of the matter.

As applications of each of the petitioners seeking interim release of the seized stocks are pending with the Joint Collector, Chittoor (as pleaded in writ petitions), the Joint Collector, Chittor shall consider and dispose of such applications for interim release of the seized stocks expeditiously and preferably within a period of thirty (30) days from the date of receipt of a copy of this order. Nothing in this order shall be construed as an expression by this court on the merits of the petitioners' applications for interim release of the seized stocks. The Joint Collector, Chittoor shall consider and pass orders on such applications in accordance with law and in accordance with the lawful exercise of his discretion.

The writ petitions are disposed of with the above observations at the stage of admission after hearing the learned Government Pleader for Civil Supplies. There shall be no order as to costs.

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GODA RAGHURAM, J

Dated:06-03-2007
Pvks/*

Nb:- Furnish c.c. in three days.
B/o pvks/*